

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:06CR88  
(Judge Keeley)

RENE Y. SWEET,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 2, 2006, Defendant Rene Y. Sweet ("Sweet") filed a "Motion to Dismiss Indictment for Failure to Allege an Offense." On October 4, 2006, the Court referred this motion to United States Magistrate Judge John S. Kaull for a report and recommendation. On October 12, 2006, the United States responded to Sweet's motion by requesting a dismissal without prejudice and stating that it intends to proceed with prosecution under a different federal statute.

On October 13, 2006, Magistrate Judge Kaull issued a Report and Recommendation, recommending that Sweet's motion be granted and the indictment be dismissed without prejudice. He also directed the parties to file any objections to the report and recommendation within ten (10) days after being served.

On October 16, 2006, the United States filed a response to the report and recommendation again stating that it had no objection to the dismissal without prejudice. On October 17, 2006, Sweet filed

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

a response to the report and recommendation indicating that she did not object to the recommendations of the magistrate judge.

Therefore, the Court **ADOPTS** the Report and Recommendation in its entirety, **DISMISSES WITHOUT PREJUDICE** the indictment in criminal number 1:06CR88, and **ORDERS** that the case stricken from the Court's docket.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to counsel of record and all appropriate agencies.

Dated: October 18, 2006.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE